

GAHC010177142023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/2849/2023

PHURKAN ALI AND ANR
S/O HUSSAIN ALI
R/O VILL- BRAHMABIL
P.S. SAMAGURI
DIST. NAGAON, ASSAM

2: MD. SAIDURL ISLAM
S/O SHAHID ISLAM
R/O VILL- LAOGAON
P.S. NAGAON
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 30.08.2023

Heard Mr. T. Chutia, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State.

This anticipatory bail application has been preferred under Section 438 of Code of Criminal Procedure, 1973, by the present petitioners, namely, (1) Phurkan Ali, and (2) Md. Saidul Islam, praying for grant of pre-arrest bail to the petitioners, who are apprehending their arrest in connection with Basistha P. S. Case No. 308/2023 under Sections 379/34 of the Indian Penal Code read with Section 13 (1)/16 of the Assam Cattle Preservation Act, 2021 read with Section 11(1) (d) of the Prevention of Cruelty to Animal Act, 1960.

The accusation in this case is that on 01.06.2023, one Matleb Ali lodged an FIR before the Officer-in-Charge of Basistha Police Station, *inter-alia*, alleging that when the police staff of Jorabat Out Post were conducting naka checking at Jorabat near Rajathani Dhani Hotel two vehicle bearing registration nos. AS-01EH-0706 and AS-01FJ-5183 respectively were found carrying cattle illegally inside the said vehicles. The drivers of both the vehicles were arrested at the time of search operation and on receipt of the said FIR, Basistha P. S. Case No. 308/2023 was registered.

Learned counsel for the petitioners has submitted that both petitioners are the registered owner of the vehicle involved in the offence and it is submitted by the said vehicles were used to carry cattle without knowledge of the present petitioners.

It is also submitted by the learned counsel for the petitioners that on their prayer for custody of the seized vehicle have been given to the present petitioners by the Court of learned SDJM, Kamrup (Metro), however, it is also submitted that though their names are not mentioned in the FIR, however, they apprehend that if they approach the Investigating Officer for taking the custody of the seized vehicle they may be arrested.

On the other hand, learned Additional Public Prosecutor has submitted that the offence of cattle smuggling has been committed in an organized manner and though the present petitioners are not named in the FIR however, there is every possibility of their involvement in the alleged offence.

I have considered the submissions made by learned counsel for both sides and materials placed before me including the case diary which contain the statement of the arrested accused persons recorded under Section 161 of the Code of Criminal Procedure,

1973.

It appears that both the petitioners are owners of the seized vehicle and it is suspected that they may be involved in the offence, however, as on date, there is no direct evidence to indicate their involvement in the alleged offence. Further, the present petitioners are also ready to co-operate with the Investigating Officer in fair completion of investigation of Basistha P. S. Case No. 308/2023.

In view of the above, this anticipatory bail application is disposed of with a direction that both the above mentioned petitioners shall appear before the Investigating Officer of the Basistha P. S. Case No. 308/2023 within a period of ten days from the date of this order and shall co-operate him in fair completion of investigation and if they do so within the stipulated period of time, in the event of their arrest in connection with Basistha P. S. Case No. 308/2023, they shall be allowed to go on bail on furnishing of bail bond of Rs. 30,000/- (Rupees Thirty Thousand only) each, with one surety of like amount to the satisfaction of the arresting authority with the condition that the petitioners shall co-operate in the investigation of this case.

With the above observation, this anticipatory bail application is disposed.

Send back the case diary.

JUDGE

Comparing Assistant